

REMARKS

The applicants thank the Examiner for the courteous interview granted applicants' attorneys.

It is noted that claims 13-21 which had been previously withdrawn, have been rewritten to be dependent upon claim 1, and are therefore now properly presented.

During the interview, the undersigned explained several differences between the claims and the prior art being applied by the Examiner and why the claims should be allowable over the prior art. It is believed that the Examiner found these arguments convincing.

First, the claims of the present invention set forth a surgical retractor which comprises a **swivel** with a first end of the swivel having a non-circular keyway means for engaging a key on a deployment tool. The retractor also includes a first length of string extending from a first end of the swivel and a second length of string extending from a point substantially midway between the first and second ends of the swivel, with the second length of string having a free end which does not re-enter the swivel. As set forth in the claims, pulling on the second length of string causes the swivel to **swivel off** the key on the deployment tool and be oriented substantially perpendicular to the second

length of string, while pulling on the first length of string causes the swivel to be oriented substantially coaxial to the first length of string.

According to the American Heritage Dictionary, a swivel is

swivel

SYLLABICATION: swiv-cl

PRONUNCIATION: swvl

NOUN: 1. A link, pivot, or other fastening so designed that it permits the free turning of attached parts. 2. A pivoted support that allows an attached object, such as a chair or gun, to turn in a horizontal plane. 3. A gun that turns on a pivot.

While the present invention clearly discloses and claims swivel – i.e., a link, pivot, or other fastening so designed that it permits the free turning of attached parts, the cited prior art clearly does not provide a swivel. In both Cerier et al. and Cope, the suture anchor is not a swivel because it cannot turn as an attached part. In both cases, the anchors are moved off their deployment tools in an axial direction only; i.e., while attached, they cannot turn (swivel). In the presently claimed invention, the elongate swivel is a swivel because it turns (swivels off the key on the deployment tool) while it is attached. It is the claimed non-circular keyway means of the swivel which engages the key on the deployment tool which permits the swiveling.

Second, it was pointed out to the Examiner that the last two paragraphs of claim 1 (“such that pulling on said second length of string causes said swivel to swivel off the key on the deployment tool and be oriented substantially perpendicular to said second length of string, and pulling on said first length of string causes said swivel to be oriented substantially coaxial to said first length of string”) do not present intended use or functional language which can be ignored, but rather operational language which give

meaning to the positively recited elements of the claim. Thus, the operational language which explains what causes the swivel to swivel off the key adds meaning to the word “swivel” and cannot be ignored. In Cerier et al., the separation of the suture anchor from the deployment tool is caused by forcing the suture anchor into bone so that the retention force of the anchor in the bone is greater than the axial disengagement force of the pin 36 of the deployment tool from the slots 38 of the anchor. The sutures 34, 36 of Cerier et al. are not used to manipulate the anchor in any manner whatsoever. Similarly, in Cope (which does not have a keyway means for engaging a key), separation of the suture anchor from the deployment tool is caused by axial movement of one relative to the other.

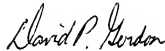
Third, the embodiment of Fig. 2 of Cerier et al. which was used in an anticipation reject of certain claims does not have “a first length of string which extends from the first end of the swivel” as set forth in claim 1, because in Fig. 2 of Cerier et al., the first length of string extends from the middle of the swivel.

Fourth, with respect to obviousness rejection of the claims as being obvious over Cope in view of Cerier et al., the undersigned pointed out to the Examiner that Cope does not have a keyway means for engaging a key as the words “keyway” and “key” are commonly understood. Further, since Cerier et al. is directed specifically to a bone anchor device where the anchor cannot be rotated relative to the bone, whereas Cope is directed to a suture anchor which is intended to anchor is intended to be rotated **after complete disengagement** (see Figs. 12-17), the two are not properly combinable.

Indeed, any combination of Cerier et al. and Cope which would put the keyway and pin of Cerier et al. on Cope, would destroy the functioning of Cope, because once the anchor of Cope would be locked onto the deployment tool, there would be no way to get it off as the anchor of Cope is never engaged into bone which can provide sufficient retention force to overcome the axial removal force on the suture.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in cursive script, reading "David P. Gordon".

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